

PUBLIC MEETING MINUTES

October 12, 2005

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street
Sacramento, CA 95814

Chairman Duncan called the meeting to order at 10:00 a.m.

Members Present

John C. Duncan, Chairman
Alfred K. Whitehead, Member
Lilian S. Shek, Member
Sally M. McKeag, Member
Karen Neuwald, Member

Staff Present

Bob Thompson, General Counsel
Eileen Potter, Chief Administrative Officer
Fred D'Orazio, Chief Administrative Law Judge
Les Chisholm, Regional Director

Call to Order

Chairman Duncan called the Board to order for the continuous open session of the August 11, 2005, Board meeting. He reported that the Board met in continuous closed session to deliberate on cases pending on the Board's docket.

Since that open session in August, the Board has issued PERB Decision Nos. 1775, 1776, 1777, 1778, 1779-M and 1780-M. It was reported that the following requests for Injunctive Relief were denied: I.R. No. 488 (SEIU Local 1000, CSEA v. State of California (Departments of General Services & Transportation)), I.R. No. 489 (Rodney N. Trout v. University Professional & Technical Employees), I.R. No. 490 (Kathy Aldern v. University Professional & Technical Employees), I.R. No. 491 (Statewide University Police Association v. Trustees of the California State University), I.R. No. 492 (State of California (Department of Corrections & Rehabilitation & Department of Personnel Administration) v. SEIU Local 1000, CSEA) and I.R. No. 493 (San Francisco Unified School District v. SEIU Local 790). In addition, I.R. No. 494 (Statewide University Police Association v. Trustees of the California State University) was withdrawn. A document containing a listing of the aforementioned decisions was made available at today's meeting.

Chairman Duncan acknowledged PERB colleagues and staff for their outstanding work in completing PERB's 2004-2005 Annual Report. The Annual Report was made available at today's meeting and was made known that it is also accessible on the PERB web site.

Chairman Duncan was pleased to announce that effective September 15, 2005, the Governor appointed Heather Glick as Legal Adviser to Board Member Karen Neuwald. Ms. Glick was an associate with the law firm of Liebert, Cassidy, Whitmore where she practiced general counsel, labor and litigation advice to public sector agencies. Prior to that, she was an associate with Ancel, Glick, Diamond, Bush, DiCianni & Rolek from 2002 to 2004. In addition, she served for one year as Labor Relations Counsel for the Illinois Department of Central Management Services.

Motion: Motion by Member Whitehead and seconded by Member Shek to close the August 11, 2005, public meeting.

Ayes: Duncan, Whitehead, Shek, McKeag and Neuwald.

Motion Carried.

Chairman Duncan opened the meeting of October 12, 2005 and acknowledged Member Neuwald's presence and on behalf of the Board, officially welcomed her to PERB. He also acknowledged and welcomed Legal Adviser Greg Lyall to PERB. Member Neuwald led in the Pledge of Allegiance to the Flag.

Minutes

Motion: Motion by Member McKeag and seconded by Member Neuwald that the Board adopt the minutes of the Public Meeting of PERB for August 11, 2005.

Ayes: Duncan, Whitehead, Shek, McKeag and Neuwald.

Motion Carried.

Comments From Public Participants

None.

Staff Reports

Before formal staff reports commenced, on behalf of the Board, Chairman Duncan thanked the PERB constituents who participated in the September 8, 2005 Advisory Committee meeting. He stated that there was an excellent participation from both public sector labor and management communities. He further noted that the meeting was an excellent forum by which PERB staff and constituents could receive and exchange ideas to improve the operations of PERB. As a result, Chairman Duncan announced that the Board will schedule an Advisory Committee Meeting once every 6 months to keep abreast on the exchange of healthy and positive ideas from interested parties.

a. Administrative Report

Chief Administrative Officer Eileen Potter reported on the status of PERB's unfair practice charge on-line filing project. After many favorable responses from constituents on the initial test site, PERB proceeded to a full beta testing application that will be ready for continued constituent testing some time before November 24, 2005. The full release date for this project is anticipated for January 2006.

Ms. Potter also reported that preparation work has begun on PERB's fiscal year 2006-2007 Governor's budget documents with the Department of Finance. There was nothing new or controversial to report at this time.

b. Legal Report

Mr. Thompson reported that the regional attorney and litigation reports were distributed to the Board for their review. He anticipated charge filings to be in the area of 70 to 75 cases per month and remain at this amount throughout the remainder of the year, with approximately 850 – 900 charges being filed at the full fiscal year.

Chairman Duncan requested Mr. Thompson to estimate, within the last three months, how many injunctive relief requests were filed before PERB. Mr. Thompson responded that approximately 12 - 15 injunctive relief cases were filed within that time period, but the sudden increase was unexplainable. He commented, however, that there were several sets of contentious negotiations going on between the State of California and the unions representing a number of bargaining units, as well as the University of California's involvement in contract negotiations with their bargaining units, that may have contributed to this increase.

Mr. Thompson introduced the following new staff members who joined the General Counsel's Division: Eric Cu (PERB L.A. Regional Office) formerly of Rothner, Segall & Greenstone, Alicia Clement (PERB Oakland Regional Office) formerly of Leonard Carter, and Carolyn Kubish (PERB Sacramento Regional Office) formerly an intern from the Eastern District Federal Courts. Mr. Thompson also reported that the General Counsel's Office is now advertising for a legal secretary position and the final filing date for that position is Friday, October 14, 2005.

Chief Administrative Law Judge Fred D'Orazio formally welcomed Administrative Law Judge Christine Bologna to PERB. He stated that the administrative law judge report was distributed to the Board for their review and that the workload in his division remained constant.

c. Legislative Report

Sacramento Regional Director Les Chisholm reported on three bills. (1) Senate Bill 1108, approved by the Governor and chaptered, makes technical corrections to a section of the Trial Court Act; (2) Senate Bill 621 (Speier) also approved by the Governor and chaptered,

adds a new section to the Dills Act to address the situation where parties agree to a side letter or appendix to a memorandum of understanding. A ratification process by the Legislature would apply. There are also related changes to the Government Code relating to the posting of information on the Department of Personnel Administration's web site about such agreements; and (3) Senate Bill 1041 – this bill would restructure the Agricultural Associations and allow them to become public corporations. Mr. Chisholm reported, based on his understanding from telephone and e-mail communications, that there is an interest in amending the bill to clarify that employees of Agricultural Associations would continue to be covered by the Dills Act, and that their representation processes and rights be subject to PERB's jurisdiction. Mr. Chisholm will continue to monitor future proposals and/or developments on this bill and keep the Board informed.

Member Shek mentioned that with her one year anniversary working at PERB growing near, it was an opportune time for her to acknowledge the PERB staff for their wise counsel and assistance afforded to her thus far and that she was very proud to be a part of PERB.

Motion: Motion by Member Whitehead and seconded by Member McKeag that the Administrative, Legal (including General Counsel and Chief Administrative Law Judge) and Legislative Reports be received.

Ayes: Duncan, Whitehead, Shek, McKeag and Neuwald.

Motion Carried.

Old Business

None.

New Business

Chairman Duncan called upon General Counsel Bob Thompson for a briefing on possible "clean-up" modifications to PERB's regulations. The proposed package of modifications will not include changes to agency fee regulations. Mr. Thompson briefly summarized each proposed regulation by category. After the presentation and discussion, the Board was asked to vote to send the proposed package forward to the Office of Administrative Law in order to initiate to the formal rulemaking process.

Motion: Motion by Member Whitehead and seconded by Member Shek to forward the proposed modifications to PERB's regulations to the Office of Administrative Law in order to initiate the formal rulemaking process.

Ayes: Duncan, Whitehead, Shek, McKeag and Neuwald.

Motion Carried.

There being no further business, the meeting is recessed to continuous closed session.

The Board will meet in continuous closed session each business day beginning immediately upon the recess of the open portion of this meeting through December 8, 2005 when the Board will reconvene in Room 103, Headquarters Office of the Public Employment Relations Board.

The purpose of these closed sessions will be to deliberate on cases listed on the Board's Docket (Gov. code sec. 11126(c)(3)), personnel (Gov. Code sec. 11126(a)), pending litigation (Gov. Code sec. 11126(e)(1)), and any pending requests for injunctive relief (Gov. Code sec. 11126(e)(2)(c)).

Motion: Motion by Member Neuwald and seconded by Member McKeag that there being no further business, the meeting be recessed to continuous closed session.

Ayes: Duncan, Whitehead, Shek, McKeag and Neuwald.

Motion Carried.

Respectfully submitted,

Chris Wong, Executive Assistant

APPROVED AT THE PUBLIC MEETING OF:

John C. Duncan, Chairman